

REMARKS

Reconsideration of this application in view of the foregoing Amendment and the following Remarks is respectfully requested.

The Examiner acknowledges the Request for Continued Examination with submission under 37 CFR 1.114 filed on July 7, 2003. The applicant's submission of a Response to Restriction Requirement mailed on June 4, 2003 included an amendment to the claims.

The applicant elected with traverse Species A and sub-species (a): claims 1, 3, 5-7, 10-16, 18-20, 24-29, 32-40 and 42. Claims 2, 8-9, 17 and 23 have been cancelled. Claims 4, 21-22, 30-31 and 41 are non-elected.

Despite the traversal, the Examiner has deemed the restriction proper and considered to be Final. However, the Examiner now further alleges that claims 5-7, 10-16, 24-40 and 42 are drawn to non-elected species B. The Examiner therefore has deemed claims 5-7, 10-16, 24-40 and 42 as being withdrawn. The Examiner further alleges that only claims 1, 3 and 18-20 are still in consideration for elected species A and sub-species (a).

Allowable Subject Matter: Claim 3

The Examiner objects to claim 3 as being dependent upon a rejected base claim but would be allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claims.

At the outset, prior to addressing the rejections over the prior art, the applicant calls to the Examiner's attention that the applicant has made a very minor editorial correction to claim 1 to change the verb "orient" to recite instead --orients-- to

correspond to the singular nature of the noun “orientation layer”. No new matter has been added.

35 U.S.C. 103(a) Rejections: Claims 1 and 18-20

The Examiner has rejected claims 1 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of FIG. 6 in view of Shiomi et al (US 6,330,048 B1 - filed August 19, 1999 - issued December 11, 2001).

The Examiner asserts that the admitted prior art of FIG. 6 discloses several of the limitations of claims 1 and 18. By asserting that “it is conventional” that an active matrix liquid crystal display device comprises: the second plate having a black matrix provided with openings at areas that oppose said pixel electrodes and other limitations, the applicant considers the Examiner to be effectively providing his personal opinion as a basis for asserting that prior art anticipates some of the limitations of the claims.

The Examiner asserts that Shiomi et al teach in FIGS. 7A-7B an active-matrix liquid crystal display device comprising at least one columnar spacer (spacer 2) having a diameter varying along its axis between two opposing plates for regulating a panel gap therebetween, said at least one columnar spacer disposed approximately at a center of a pixel (FIG. 7A).

The Examiner asserts that therefore, it would have been obvious to one of ordinary skill in the art to combine the admitted prior art with the Examiner’s own opinion and Shiomi et al to devise the present invention of claims 1 and 18-20.

In response, the applicant calls to the Examiner's attention that the Shiomi et al reference was filed in the US on August 19, 1999. The present invention of Matsuyama was filed in Japan on August 28, 1998.

The applicant is hereby enclosing a copy of a declaration and a certified translation of the present application of Matsuyama as filed in Japan on August 28, 1998. The certified translation was performed by Mr. Asamichi Kato of Yokohama, Kanagawa, Japan on December 16, 2003 who avers that he is familiar with the English and Japanese languages and that he has prepared the English translation attached hereto, which is a true and complete translation of the patent application filed with the Patent Office of Japan under Application No. JP 10-242740 on August 28, 1998 to the best of his knowledge and belief.

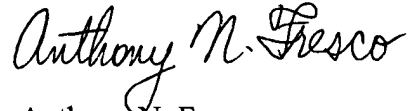
Therefore, under the provisions of 35 U.S.C. 119(a)-(d), in that the applicant has now submitted a certified translation of the foreign priority document, the applicant hereby requests that the Examiner remove Shiomi et al et al as a prior art reference.

In that the Shiomi et al reference should be removed as a prior art reference, the applicant maintains that claims 1 and 18-20 patentably distinguish over the admitted prior art of FIG. 6 and the Examiner's personal opinion, taken alone or in combination. Consequently, the applicant respectfully requests the Examiner to withdraw the rejections of claims 1 and 18-20.

Reconsideration of this application in view of the foregoing Amendment and Remarks is respectfully requested. The foregoing Amendment and Remarks establish the patentable nature of all of the claims remaining in the application, i.e.,

claims 1 and 18-20. Claim 3 contains allowable subject matter. No new matter has been added. Wherefore, early and favorable reconsideration and issuance of a Notice of Allowance are respectfully requested.

Respectfully submitted,



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- Encl. 1. Certified Translation of Foreign Priority Document
2. Verification of a Translation